HIGH COURT OF CHHATTISGARH, BILASPUR

(DIVISION BENCH)

CORAM: **HON'BLE SHRI JAGDISH BHALLA, ACTING C.J. &**
HON'BLE SHRI DILIP RAOSAHEB DESHMUKH, J.

Writ Appeal No.121 of 2007

Appellant Petitioner : Shalik Ram, S/o Shri Gaindu Ram Sahu, aged about 58 years, occupation-Private Service, Resident of Village Vinayakpur, Police Station ANDA, Tahsil and District Durg (C.G.)

-Versus-

Respondents :
1. State of Chhattisgarh, Through Senior Superintendent of Police, District Durg (C.G.)
2. Officer-in-charge, Police Station, ANDA, District Durg (C.G.)
3. Khuman Singh Dilliwar, S/o Shri Shyam Lal Dilliwar, aged about 52 years, Resident of Village Vinayakpur, Police Station ANDA, Tahsil and District Durg (C.G.)

Writ Appeal Under Section 2 (1) of the C.G. High Court (Appeal to Division Bench) Act, 2006

Present:
Shri Uttam Pandey, Counsel for the appellant/petitioner.
Shri Vinay Harit, Dy. A.G. for the State.

ORAL ORDER
(Passed on 27.06.2007)

The following oral order of the Court was passed by **Jagdish Bhalla, Acting C.J.**

This writ appeal arises of the judgment and order passed by learned Single Judge wherein the writ petition of the appellant was dismissed on the ground of alternative remedy.

There is delay of 50 days in this appeal. However, we called upon the appellant to address this Court on merits of this case.

Learned counsel for the appellant had prayed before the learned Single Judge for a direction in the nature of mandamus to the authorities to ensure that the first information is registered. In his support, learned counsel for the appellant submitted that the police officer had no other alternative except to lodge the first information report by informant and in support he relied upon judgments rendered in the case of **Lallan Chaudhary & Ors. V. State of Bihar & Anr. 2006 AIR SCW 5172** and **Prakash Singh Badal and another v. State of Punjab and othersV. State of Punjab and others (2007) 1 SCC 1.** Interestingly, the learned counsel for the appellant informed that he had not cited the above judgments before learned Single Judge under the impression that the learned Single Judge is aware of the same.

The pronouncements of the Apex Court are binding upon the High Court and the society including members of the Bar.

After hearing learned counsel for the parties, we find that statutory remedy available to the petitioner is under Section 156 of the Cr.P.C. However, learned counsel for the appellant who had submitted that such a remedy is not efficacious remedy, has failed to substantiate his argument. Further, learned counsel for the appellant could not point any reason or ground for our interference in the judgment and order passed by learned Single Judge.

Now we come to the direction given by the Hon'ble Single Judge in the judgment and order wherein we find that the Hon'ble Single Judge has granted liberty to the appellant to file a criminal complaint before the competent court of law on the allegation which has been raised against respondent No.3. Therefore, Hon'ble Single Judge has dismissed the petition on the ground of alternative remedy, thereby it means that the Hon'ble Single Judge has not made any scrutiny on the merits of the case.

In the light of above, we find no error committed by the Hon'ble Single Judge in passing the impugned order. Accordingly, the appeal is devoid of merit and is dismissed.

We further clarified that still it would be open for the appellant to approach the competent Court of law in accordance with the provision of Code of Criminal Procedure, 1973.

Sd/-
Ag. Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge

Anjani